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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/664,472	09/18/2000	Peter A. Graef	WEYC116081	4308

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EXAMINER

WEBB, JAMISUE A

ART UNIT PAPER NUMBER

3761

DATE MAILED: 10/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/664,472

Applicant(s)

GRAEF ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 12 July 2002 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Drawings

1. The proposed drawing correction filed on 7/16/02 has been disapproved because it is not in the form of a pen-and-ink sketch showing changes in red ink or with the changes otherwise highlighted. See MPEP § 608.02(v).
2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 7/16/02 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of leg gatherers (53) in the rectangular shape and located at the ends, as diagramed in Figures 32 and 33. Furthermore, it is unclear what these figures represent, is it the top view of the article, or the cross sectional view?

Specification

3. The amendment filed 7/16/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The leg gathers being reference numeral 53, which depicts in the figures where the gathers are located and their shape. The specification, as originally filed, does not give support for the location or the shape of the leg gathers.

Applicant is required to cancel the new matter in the reply to this Office Action.

4. The disclosure is objected to because of the following informalities: The applicant has amended the specification to give brief descriptions of the newly added figures.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 1-22, 27-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Guidotti et al. (6,429,351).

7. With respect to Claims 1, 2, 6, 30-40, 42-44, 46, 49-51 and 53: Guidotti discloses the use of an absorbent article such as diapers and sanitary napkins (column 1, lines 18-20) with a liquid-permeable topsheet (1), a liquid-impermeable backsheet (2) and an absorbent body (3) located there between. Guidotti discloses the core (3) being made of multiple different layers (18,19,23 and 25), and where layer 19 is made out of bands of absorbent material, with spaces between the bands which are void of absorbent material (see Figures 1-7). Guidotti discloses the core being made of bonded cellulosic fibers (column 4, lines 20-63) and a mixture of superabsorbent (column 10, lines 1-6).

8. With respect to Claims 3 and 4: See Figure 3.

9. With respect to Claim 5: See Figure 1.

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10. With respect to Claims 7-9: Guidotti discloses the use of CTMP, See column 9, lines 25-35 and column 10, lines 1-6.
11. With respect to Claims 10-15 and 17: These claims are rejected as being directed to an unselected species of the Markush groups in claims 7 and 8.
12. With respect to Claims 16, 18-22 and 29: If considering the composite to be both the layer 19 and layer 23 of Guidotti, then Guidotti discloses layer 23 to have a superabsorbent weight of 2-80% (therefore the weight of the cellulose being 20-98% of the layer) and layer 19 to have a superabsorbent weight of up to 20% (therefore the weight of the cellulose being 80% of the layer). Therefore the combination of the two layers would produce a composite with 10-60% cellulose fibers.
13. With respect to Claims 27 and 28: See Column 9, lines 25-34.
14. With respect to Claim 41: See Reference numeral 25 (distribution layer).
15. With respect to Claims 45 and 52: Guidotti discloses elastic members (12,13) in the leg openings that form leg gathers.
16. With respect to Claims 47 and 48: See Figures 1-6.
17. With respect to Claim 54: See Figure 3.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

20. Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guidotti in view of Schmidt et al. (6,294,710).

21. With respect to Claims 23 and 24: Guidotti, as disclosed above for Claim 1, fails to disclose the use of a wet strength agent. Schmidt et al. discloses the use of a stiffening agent for use with cellulosic fibers, such as polyamide-epichlorohydrin or polacrylamide (column 6, line 62-column 7, line 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the stiffening agent of Schmidt into the composite material of Guidotti, on order to provide increased permeability, flexibility and hydrophilicity (See Schmidt column 6).

22. With respect to Claim 25: See Schmidt, Column 7, lines 1-12, and Column 14, line 49.

23. With respect to Claim 26: Schmidt discloses the stiffening agent to be present in an amount of 2%, but fails to disclose the amount of 0.25%. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the stiffening agent in the amount of 0.25% since it has been held that where the general conditions of a claim are

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disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Amendment

24. Applicant's arguments with respect to claims 1-52 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579.


The examiner can normally be reached on M-F (7:30 - 4:00).


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Ruhl can be reached on (703)308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw


September 26, 2002


GLENN K. DAWSON
PRIMARY EXAMINER